

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 13. STUDENT ASSESSMENT**

210:10-13-24. Medical exemptions from chronic absenteeism

(a) Purpose of the chronic absenteeism indicator. Because chronic absenteeism has been linked to lower academic performance, higher dropout rates, and diminished success after high school, Oklahoma has included chronic absenteeism as an indicator in the school accountability system adopted under the requirements of the *Every Student Succeeds Act* (ESSA). By highlighting the importance of regular school attendance to student success in school and beyond, the State of Oklahoma encourages schools to actively engage with students and their families in eliminating barriers to regular attendance, and to ensure students receive the supports needed to attend school every day.

(b) Purpose of the medical exemption from chronic absenteeism. The State Board of Education is directed in 70 O.S. § 1210.545 to promulgate rules providing for a medical exemption from the chronic absenteeism indicator. A public school district or charter school may request an exemption from inclusion in the school's chronic absenteeism indicator calculations for the related absences of a student who meets the criteria established in this Section for a significant medical condition.

(c) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Chronic absenteeism" means absence from school at least ten percent (10%) of the time that school is in session and the student is included in membership, eighteen (18) or more days on a 180 day school calendar or ten percent (10%) or more of school days on a 1,080 hours school calendar.

(2) "Significant medical condition" means, for the purposes of this Section, a severe, chronic, or life-threatening physical or mental illness, infection, injury, disease, or emotional trauma that meets all of the following criteria:

(A) The condition affects the student so severely as to incapacitate the student from attending school for an identifiable time period or number of school days, or for which the student must receive regular medical care requiring absence from school;

(B) The student is unable to receive instruction through homebound education services for an identifiable time period or number of school days due to the medical condition or its treatment, or homebound education is not appropriate due to brief recurring absences for the purpose of receiving treatment;

(C) The school or school district has been provided with written documentation of the condition that is verified in writing by a physician licensed to practice in the State of Oklahoma, or by a physician licensed in another state if the student has received related treatment out of state. A copy of the documentation verifying the student's condition shall be filed in the student's educational record.

(D) The term "significant medical condition" shall not include:

(i) Minor illnesses or injuries that do not incapacitate the student or require recurring treatment;

(ii) Short term illnesses or injuries resulting in absences of ten (10) or fewer consecutive instructional days, including those that require short term hospitalization of ten (10) or fewer consecutive instructional days;

- (iii) Pregnancy, unless complications of the pregnancy otherwise meet this Section's criteria for a significant medical condition; or
- (iv) Refusal of a parent/guardian to permit the student to attend school or receive homebound services due to the illness, injury, or trauma.
- (v) The occurrence of one of the conditions listed in (D) shall not disqualify a student who is eligible for a medical exemption on a different basis.
- (E) Examples of conditions that could be considered "significant medical conditions" for the purposes of this Section may include, but are not limited to:
- (i) The student is in the final stages of a terminal disease or degenerative illness, or the student has been placed in hospice care;
- (ii) The student is comatose;
- (iii) The student has a serious chronic medical condition (a condition lasting three months or more), and is absent for the purpose of receiving condition-related treatment such as chemotherapy or dialysis;
- (iv) The death or life-threatening injury of an immediate family member of the student (student's parent/guardian, sibling, or child); or
- (v) The student has sustained serious mental or physical injury as a result of a catastrophic event such as:
- (I) A natural disaster or other event resulting in a declared state of emergency;
- (II) An act of violence, including but not limited to: acts of physical assault, sexual assault, kidnapping, homicide, torture, or terrorism;
- (III) Drowning;
- (IV) Poisoning, fall, or traumatic brain injury; or
- (V) Fire or explosion in the student's home when the student was present.
- (d) **Absences from school that do not accrue toward chronic absentee status.** A student with disabilities who is on an Individualized Education Program (IEP), or a student with a physical or mental impairment who is on a Section 504 Plan, is considered in attendance and does not accrue absences while receiving offsite services addressed in the IEP or Section 504 plan. A student on an IEP or Section 504 Plan whose condition worsens or who requires more frequent treatments should have their IEP or Section 504 Plan updated accordingly. A student who is receiving homebound education services from their school district is considered in attendance and does not accrue absences while in homebound status.
- (e) **Effect of exempt absence.** The exempt absence(s) of a student who has been granted an exemption of one or more absences from school in accordance with the provisions of this Section shall not be included in the calculation of the chronic absenteeism indicator on the school site report card.
- (f) **Applications for exemption of one or more student absences.** A school district's application for a significant medical condition exemption for one or more student absences must include all supporting documentation, including physician verification and documentation of each date for which an exemption is requested, and must be submitted in the time, place, and manner designated by the State Department of Education.
- (g) **Appeal of a denial of a medical exemption.** A request for a medical exemption that has been denied by the State Department of Education for failure to meet the criteria for "significant medical condition" outlined in (c)(2) of this Section may be appealed to the State Board of Education in accordance with the following procedures:

(1) **Petition for appeal.** The school district or charter school in which the student is enrolled may appeal the Department's denial of a medical exemption to the State Board of Education. The parent or legal guardian of a student, an individual who has been issued letters of guardianship of the person of a student pursuant to the Oklahoma Guardianship and Conservatorship Act, or an adult who has assumed permanent care and custody of a student in accordance with local district policies and applicable state law must grant permission to the school district or charter school to file a petition for appeal to the State Board of Education. Parental consent shall be provided in writing and shall be documented by the requesting school district or charter school.

(2) **Filing requirements.** A petition for appeal must comply with the following requirements:

(A) **Time of filing.** The petition for appeal must be submitted in writing to the Secretary of the State Board of Education within ten (10) business days after the date the school district receives notice of the Department's denial of the medical exemption.

(B) **Method of filing.** Petitions for appeal may be submitted to the Secretary of the State Board of Education in person or by mail. A petition submitted by mail will be accepted as timely if the mailing envelope contains a postmark dated on or before the date of the filing deadline.

(C) **Verification of a petition for appeal.** The petition for appeal must be signed by the school Superintendent or the school Superintendent's designee, or charter school administrator or designee, for the purpose of verifying that, to the best of the individual's knowledge, the information submitted in the appeal is accurate and correct.

(D) **Acceptance of a petition for filing.** Upon receipt of the petition for appeal, the Secretary of the Board of Education shall file the petition and obtain copies of all records and information submitted by the school district or charter school to the State Department of Education pursuant to (f) of this Section. Copies of agency records and additional documentation submitted in the petition for appeal shall be provided to members of the State Board of Education for consideration. Only timely filed petitions for appeal shall be brought to the State Board of Education for consideration. The Board shall take action on the petition at the next regularly scheduled State Board of Education meeting, unless the petition is received ten (10) or fewer calendar days prior to the next regularly scheduled meeting. A petition received ten (10) or fewer calendar days prior to the next regularly scheduled meeting of the Board will be considered at the following month's regularly scheduled meeting.

(3) **Review of petitions.** Because the privacy of individual student data is protected by the Family Educational Rights and Privacy Act (FERPA) and Oklahoma's Student Data Accessibility, Transparency, and Accountability Act, the State Board of Education shall review petitions for appeal in executive session as authorized by 25 O.S. § 307 (A)(7). The State Board of Education shall evaluate each petition for appeal based on the following criteria to determine whether a "significant medical condition" exists as contended by the appealing school district or charter school:

(A) The applicability of the criteria outlined in (c)(2) of this section related to the determination of a "significant medical condition";

(B) The extent of the student's incapacitation or need for treatment; or

(C) The existence of newly discovered documentation or newly available information that significantly and substantively reflects on the student's mental and/or physical state

of being and that would have resulted in an exemption being granted for one or more absences if the newly discovered information had been available when the request was denied.

(4) **Actions on a petition for appeal.** After review of the petition for appeal in accordance with (g)(3) of this section, the State Board of Education shall take action on a petition for appeal based on the merits of the information provided in the written appeal.

(A) The Board shall consider each petition for appeal on an individual basis and shall issue an approval or denial of the request for a medical exemption.

(B) The Secretary of the Board shall notify the school district or charter school and the State Department of Education in writing of the Board's determination.

(C) The State Department of Education shall document each determination to maintain an accurate agency record of each request for a medical exemption.

(D) Requests for student medical exemptions granted by the State Board of Education will be processed pursuant to (f) and (g) of this Section. The absences of students denied medical exemptions by the State Board of Education will be included in the calculation of the chronic absenteeism indicator of the school and/or school district.